



सत्यमेव जयते

न्यायालय मुख्य आयुक्त विकलांगजन
COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES
विकलांगजन सशक्तिकरण विभाग / Department of Empowerment of Persons with Disabilities
सामाजिक न्याय और अधिकारिता मंत्रालय / Ministry of Social Justice and Empowerment
भारत सरकार / Government of India

Case No.: 6913/1024/2016

Dated: 12.07.2017
Dispatch No.....

In the matter of :

Shri Ambika Prasad Anand,
Emp. No.03, R2125
Jr. Technical Superintendent,
Deptt. of Electrical Engineering,
Indian Institute of Technology, Patna,
Bihar,
Patna – 801106
Email<ambika@iitp.ac.in>

.....Complainant

Versus

Indian Institute of Technology, Patna
(Through the Director), R2126
Patna,
Bihar - 801106

.....Respondent

Date of Hearing : 14.06.2017

Present :

1. Complainant absent.
2. Dr. Anshuman, Advocate and Shri Tripurari Sharan Sinha, Deputy Registrar – On behalf of Respondent

ORDER

The above named complainant, a person with 40% locomotor disability, filed a complaint dated Nil under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, hereinafter referred to as the Act, regarding non payment of Transport Allowance at double the normal rate and denial of benefits of Tax exemption etc.

2. The complainant has submitted that he was discharged from Army prematurely on 30.04.2008 due to low medical category. He has been suffering from disability since 01.05.2008. The complainant joined Indian Institute of Technology, Patna as Jr. Technical Superintendent on 28.11.2008. He submitted all the relevant documents to his establishment. He submitted that despite submitting all the relevant documents to his establishment and making several requests to his establishment, he was not paid Transport Allowance or given any exemption in Income Tax.

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(कृपया भविष्य में पत्राचार के लिए उपरोक्त फाईल/केस संख्या अवश्य लिखें)
(Please quote the above file/case number in future correspondence)

3. The matter was taken up with the respondent under Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, vide letter dated 23.11.2016 of this Court.

4. The Respondent vide letter no. IITP/R/Ser./2016/718 dated 16.12.2016 submitted that the complainant is working as Junior Technical Superintendent in the Deptt. of Electrical Engineering at IIT Patna since 28.11.2008. The complainant when applied for the post of Junior Technical Superintendent against the advertisement no. IITP/R/002/2008 dated 06.08.2008 in category Ex-Serviceman/OBC did not mention about his disability in the application form nor submitted any supporting documents alongwith the application. The complainant first applied for grant of transport allowance at double the normal rate on the basis of OH employee and also submitted the Disability Certificate issued by records office for OIC Records. The matter was referred to the Deptt. of Orthopedics P.M.C.H. to assess the disability of percentage of its two employees, i.e. Shri Dhiran Kumar Nayan and the complainant. Shri Dhiran Kumar submitted the Disability Certificate issued by the Head of Deptt. of Orthopedics, PMCH and on the basis of which double transport allowance was granted to him w.e.f. 13.02.2013. The complainant did not submit his Disability Certificate. It is further stated therein in their reply that a Medical Board was formed under the Civil Surgeon, Patna. The complainant was advised by their establishment to present himself before the Medical Board for assessing his percentage of disability. In spite of going to the Civil Surgeon, the complainant vide his letter dated 14.06.2016 submitted a certificate issued from Medial Officer Incharge Referral Hospital, Bihta, Patna. The Respondent stated that the complainant has non-compliance attitude and has dishonoured the instruction of the administration in this regard.

5. The complainant through his rejoinder vide email dated 06.01.2017 has submitted that he had applied for Transport Allowance on 07.02.2012 before the Registrar/Director IIT Patna for payment of the same since the date of his joining the Institute. He stated that his

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establishment kept his representation pending and also issued a letter no. IITP/R/NF/2012/073 dated 08.05.2012 to the Director, Mahavir Vatsalay Hospital, LCT Ghat, Patna to assess the percentage of his disability and recommendation for grant of Transport Allowance. The complainant says that he has already submitted his Disability Certificate issued by EME Records, Secunderabad and Pension Payment Order along with his said application. As directed, he appeared in person before the Director Mahavir Vatsalya Hospital for the purpose of his Disability Certificate on 10.05.2012. He was referred to the Civil Surgeon Patna on Prescription no. BILL0000341590 dated 10.05.2012 and he submitted the prescription in his establishment on the same day, i.e. 29.05.2012, but his establishment kept the matter pending. On repeated reminder, they issued a letter dated 19.10.2012 to the H.O.D. Deptt. of Orthopedics PMCH, Patna instead of issuing letter to the Civil Surgeon Patna to assess the degree of his disability. Therefore, the complainant applied directly to the Civil Surgeon for grant of disability certificate on 07.11.2012 and the Civil Surgeon told that he may get his certificate from Medical Authority at Block/Taluk level who has been empowered to grant such certificate. He persuaded his establishment to consider his said representation on the basis of disability certificate already granted by the EME Records. Ultimately the complainant obtained the Disability Certificate from PHC, Sonpur, Saran (Certificate No. 561/15-16 dated 22.12.2015) and submitted the same with the Director, IIT Patna, but they did not consider his certificate. He then obtained the disability certificate from Referral Hospital, Bihta, Patna. But again his disability certificate was not considered by his establishment and he was asked to appear before Civil Surgeon, Gardaniabagh on 17.06.2016 for medical examination. He further submitted that without considering the Disability Certificates submitted by him on 08.02.2016 and 14.06.2016, which were in accordance with the said notification, his establishment concealed all the above facts in their reply to cover laches on their part and shown harassing attitude towards him to mislead this Court.

6. Upon considering Respondent's reply dated 16.12.2016 and complainant's rejoinder vide email dated 06.01.2017, a hearing in the matter was scheduled on 14.06.2017.

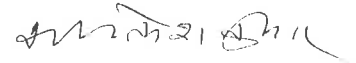
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7. The complainant was not present during the hearing dated 14.06.2017.
8. The Respondent vide its written submission dated 13.06.2017 submitted that IIT Patna has the power for deciding classification, method of appointment and the determination of the terms and conditions of service of teachers and staff of institute. IIT Patna has the authority to choose the method of appointment, which indeed includes framing of criteria for short listing. Being a legal personality IIT Patna is bound to follow the laws of the country. The complainant has applied for the post of Junior Technical Superintendent against an advertisement of 2008 in category of Ex-Serviceman/OBC but he had never mentioned about his disability in his application nor had submitted any supporting document with his application. But subsequently filed his representation mentioning his disability for the first time in the year 07.02.2012 for grant of Transport Allowance at double the normal rate on the basis of his being an orthopedically handicapped employee and attached a certificate issued by office of OIC Records EME Record, which is not in accordance with the norms of the law of the land according to IIT Patna. The Rules lay down that a Medical Board duly constituted by the Central and the State Government shall issue a Disability Certificate. The certificate issued by the Medical Board makes a person eligible to apply for facilities, concessions and benefits admissible under schemes of the Governments or Non-governmental organizations, subject such conditions as the Central or the State Government may impose. IIT Patna with a view to grant the benefit to the complainant addressed this matter to the Head of Department of Orthopedics, Patna Medical College Hospital to assess the disability percentage of employees (two employees namely Shri Dhiren Kumar Nayak and the complainant who demanded the benefits under this category) vide their letter dated 19.10.2012. A communication in this regard was also made to the petitioner and others. The other employee namely Shri Dhiren Kumar Nayank was got himself verified and all the benefits were granted to him by the IIT Patna, but the complainant has not submitted his certificate according to the rules of law, i.e. certificate by duly constituted Medical Board by Central Govt. or State Govt. The Respondent further submitted that to facilitate the benefits to the complainant at the earliest, IIT Patna officials had requested PMCH authorities for

constitution of Medical Board for obtaining the disability percentage. The complainant was requested to visit before the Board on 17.06.2016 at 11 a.m. in the office of Civil Surgeon, Patna, a competent authority under law for assessing the disability percentage. But the complainant did not submit the report issued by the Competent authority of the State Government, rather submitted a certificate issued by the Medical Officer, Incharge Referral Hospital, Patna. The Respondent submitted that the complainant was not appointed under general category and now with a view to take benefits of travelling allowances under disability category, claiming his disability certificate, which is not in accordance with DoP&T No. 36035/3/2004/Estt.. Hence complainant is entitled for the relief only after fulfillment of DoP&T guidelines.

9. Though there is no violation of any provisions of Rights of Persons with Disabilities, Act, 2016, however, the Court directed the complainant to follow the administrative procedure at IIT-Patna and acquire the requisite Disability certificate from the designated medical Board for claiming double the transport allowance.

10. The case is accordingly disposed off.



(Dr. Kamlesh Kumar Pandey)
Chief Commissioner
for Persons with Disabilities